IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
WEDNESDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO
WRIT PETITION NO : 8502 of 1994

Between:

VUDA Colony Residents Welfare Association, Rajivnagar, Kurmannapalem, Visakhapatnam-46, represented by its Secretary, Sri.K.A.Jacob, S/o.Sri K.C.Anthony, aged 36 years

..... PETITIONER

AND

Vice -Chairman
Visakhapatnam Urban Development Authority

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, especially one in the nature of Mandamus to declare as unjust and arbitrary and illegal, the action of the respondent in fixing the final cost of MIG-II , MIG-I and LIG type houses of Kuramannapalem Housing Scheme @ Rs.1,54,000/- Rs.97,000/- and Rs.65,000/- as also the consequential enhancement of the quarterly instalments and direct the respondent to re-fix the final cost in a just, fair and proper manner taking into account the actual cost of land on construction and pass such other order.

For the Petitioner:MR.D.V.Sitarama Murthy, Advocate

For the Respondent:MS.Sumalini Reddy, Standing Counsel for Visakhapatnam Urban Development Authority

The Court Made the Following :

ORDER:

Visakhapatnam Urban Development Authority Residents Welfare Association is the petitioner. The Association seeks a Writ of Mandamus declaring the action of the respondent, namely, Visakhapatnam Urban Development Authority (VUDA), in fixing final cost of LIG, MIG-I and MIG-II type houses of Kurmannapalem Housing Scheme to Rs.65,000/- (Rupees sixty five thousand only), Rs.97,000/- (Rupees ninety seven thousand only) and Rs.1,54,000/- (Rupees one lakh fifty four thousand only) respectively as illegal and arbitrary. They also seek a direction to VUDA to refix the final cost in a just and fair manner.

In 1990 VUDA proposed a scheme for construction of different phases of houses. The members of the petitioner Association were allotted houses at the provisional cost. After completion of the houses VUDA informed them to pay enhanced cost having regard to escalation in construction cost. Aggrieved by the same, petitioner Association made representations for redressal in vain. Therefore, they filed the Writ Petition.

The provisional allotment letter issued to one of the members is annexed to the Writ Petition. The allotment letter itself shows that it is a provisional allotment and it is provisional cost. Further condition No.2 of provisional allotment letter reads as under:

(2). The total cost of the house mentioned above is purely tentative and subject to variation depending on escalation in construction costs, enhancement in Land Acquisition compensation etc. The allottees are liable to pay such enhanced amounts. Any failure to pay the revised enhanced amounts shall entail cancellation of the provisional allotment made and the amounts after forfeiture as per the rules in existence at that time will be refunded.

A reading of the above would show that members of the petitioner Association were allotted houses at a tentative cost and they were informed that the cost of the houses is subject to variation depending on escalation in construction cost and enhancement in land acquisition compensation. They were also informed that they are

liable to pay the enhanced cost and that failure to pay review enhanced cost shall entail in cancellation of provisional allotment. Therefore, the contention that enhancement is arbitrary cannot be accepted.

A Division Bench of this Court in Writ Petition No.9172 of 1990, dt.20.4.1997 considered similar question. While rejecting the contention of the allottees, it was held:

The petitioners have assailed the action of the respondent-authority in increasing the value of the plot from Rs.70/- per Sq.yard to Rs.99/- per Sq.yard. The contracts between the petitioners and the respondent do contain terms for escalating the rate of the land and the cost of development. Having regard to this stipulation and also in the light of the judgment of the apex court in **Bareilly Development Authority v. Ajay Pal Singh** (AIR 1989 SC 1076), we do not find any merit in this writ petition. The writ petition fails and is dismissed. No costs. The fees of Ms.K.Sumalini Reddy is fixed at Rs.2,150/- (Rupees two thousand one hundred and fifty only) payable by the respondent within a period of two months from the date of presentation of the bill.

Following the Division Bench judgment, this Writ Petition is liable to be dismissed and is accordingly dismissed.

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(V.V.S.RAO, J)

ASSISTANT REGISTRAR

16.6.2004 // TRUE COPY //

SECTION OFFICER

To

1.The Vice-Chairman,
Visakhapatnam Urban Development Authority,
Visakhapatnam

2.2CD copies

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